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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Federal Trade Commission; all Fifty)	
States; and the District of Columbia;)	Cause No. CV-15-00884-PHX-NVW
)	
Plaintiffs,)	
)	AMENDED MOTION FOR ORDER
vs.)	ESTABLISHING CLAIMS
)	PROCEDURES FOR THE BREAST
Cancer Fund of America, Inc., a)	CANCER SOCIETY INC., AND
Delaware corporation, et al.;)	CHILDREN'S CANCER FUND OF
)	AMERICA, INC.
Defendants.)	
)	

Receivership Management, Inc., as the court appointed Receiver, respectfully
moves the Court as follows:

1. On May 28, 2015, this Court entered its *Stipulated Order Appointing Receiver Over the Breast Cancer Society, Inc.*, and *Stipulated Order Appointing Receiver Over Children's Cancer Fund of America, Inc.*, which appointed Receivership Management, Inc., as Receiver of *The Breast Cancer Society, Inc.*, and *Children's Cancer Fund of America, Inc.* ("Receivership Orders").

2. On August 27, 2015, the Receiver filed its *Motion for Order Establishing Claims Procedures for the Breast Cancer Society, Inc. and Children's Cancer Fund of America, Inc.* (Doc. 129) and lodged a form of order with the Court. The form of order is

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similar to claims orders entered in other receivership cases in this district¹, except that the time periods were compressed due to the deadline for completing the work of the Receiver contained in the Receivership Orders.²

3. None of the parties filed responses to this motion but various issues regarding the proposed procedures were discussed in open Court on September 3, 2015. That same day the Court entered an *Order* (Doc. 144), which among other things denied the Receiver's Claims Motion without prejudice to filing a new motion "with the modifications as discussed on the record." Immediately following the hearing, the Receiver and his counsel met with counsel for the Plaintiffs and for the two largest fundraisers to discuss how best to address the issues discussed with the Court. The following week the Receiver began work on drafting modifications to the proposed claims order and requested input from Plaintiffs' counsel. Plaintiffs provided their input to the Receiver on October 2, 2015. The Plaintiffs' suggestions were considered by the Receiver and some were incorporated into a revised draft order that was then provided on October 2, 2015, to counsel for the fundraisers that appeared at the hearing before the Court on September 3, 2015. Counsel for the fundraisers responded with his comments late on October 12, 2015. The Receiver solicited final comments from the Plaintiffs and made further changes to the draft order in response to those comments and on October

¹ See the following examples of claims order entered in this District: *Order Establishing Procedures for the Adjudication of Claims* (Doc 421) entered by Judge Rosenblatt in *SEC v. Holt, et al.*, DC Ariz. CIV 03-1825; *Order Establishing Procedures for the Adjudication of Claims* (Doc. 301) entered by Judge Carroll in *SEC v. U.S. Reservation Bank & Trust, et al.*, DC Ariz. CIV 02-0581; *Order Establishing Procedures for the Adjudication of Claims* (Doc. 491) entered by Judge Teilborg in *Securities and Exchange Commission v. Dillie, et al.*, DC Ariz CIV 01-2493.

² The Receivership Orders required the Receiver to complete its work by May 23, 2016.

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16, 2015, provided the final draft to counsel for the Plaintiffs and counsel for the fundraisers for any final comments. No further comments were received and the Receiver proceeded to finalize the form of order and hereby files this motion to seek approval of the order.

4. The principal changes from the form of order lodged with the Court in August, are as follows: (a) the critical dates have been pushed back in order to allow sufficient time for the claimants to prepare and file claims and for the Receiver to evaluate and report on those claims³; (b) the persons who are to be given actual notice of the claims process has been defined to among other things, exclude persons who donated money to the Receivership Entities; and (c) the information required to be submitted in support of claims filed by fundraisers has been set forth in detail in the order as requested by the Court.

5. Although the Plaintiffs' claims against all of the defendants have not been resolved, the Court has entered stipulated judgments against the following:

- a. The Breast Cancer Society, Inc.⁴;
- b. Children's Cancer Fund of America, Inc., and Rose Perkins⁵;
- c. James Reynolds, II⁶; and

³ The extended dates were made possible when the Court eliminated the May 23, 2016, termination date of the receiverships by its *Order Re: Second Stipulation to Amend the Order Appointing Receiver over Children's Cancer Fund of America, Inc.* (Doc. 173) and its *Order Re: Second Stipulation to Amend the Order Appointing Receiver over the Breast Cancer Society, Inc.* (Doc. 174), both entered on October 15, 2015.

⁴ On May 22, 2015, the Court entered a *Stipulated Order for Permanent Injunction and Monetary Judgment Against The Breast Cancer Society, Inc.*, (Doc. #12).

⁵ On May 22, 2015, the Court entered a *Stipulated Order for Permanent Injunction and Monetary Judgment Against Children's Cancer fund of America, Inc., and Rose Perkins* (Doc. #13).

d. Kyle Effler⁷;

6. The Plaintiffs' claims against the remaining defendants are currently in the pleading stage, however, the Receiver does not believe that the final resolution of these remaining claims should delay or prevent the final adjudication of claims against The Breast Cancer Society, Inc. ("Breast Cancer Society") and the Children's Cancer Fund of America, Inc. ("Children's Cancer Fund"). Breast Cancer Society and Children's Cancer Fund are referred to hereafter collectively as the "Receivership Entities".

7. There are potential claims against the Receivership Entities, including claims by professional fundraisers that will need to be identified and adjudicated before the receivership can be terminated and final distributions made by the Receiver. The procedures proposed herein are intended to deal with all such claims against the Receivership Entities.

8. In order to accomplish the foregoing, the Receiver recommends that the Court enter the proposed order lodged herewith which will establish a fair and reasonable adjudication procedure. The Court and all persons served with a copy of this Motion are being provided with a copy of the proposed order and that order best describes the procedures being recommended by the Receiver. As an aid to the Court and the parties, some but not all of the terms and procedures contained in the proposed order are described or explained below.

⁶ On May 22, 2015, the Court entered a *Stipulated Order For Permanent Injunction and Monetary Judgment Against James Reynolds, II* (Doc. #14).

⁷ On May 22, 2015, the Court entered a *Stipulated Order for Permanent Injunction and monetary Judgment against Kyle Effler* (Doc. #15).

9. The proposed order lodged herewith establishes a claims bar date of February 1, 2016, as well as the following additional dates as part of the claims adjudication procedure:

Claims Bar Date	February 1, 2016
Date for the Receiver to File the Receiver's Claims Report	May 2, 2016
Date for Serving on the Receiver any Objections to the Receiver's Claims Report	June 30, 2016
Date for the Receiver to provide all persons serving objections with a written response	August 31, 2016
Date for the Receiver to file motion for final adjudication of claims with copies of objections and the Receiver's response to objections	September 15, 2016
Final Adjudication of Claims	To be determined by the Court

10. The Claims Adjudication process requires all persons asserting claims against the assets of any of the Receivership Entities, the Receiver, or any Receivership Assets or other property in the possession of the Receiver, to file a claim on the Proof of Claim form provided by the Receiver on or before the Claims Bar Date set forth above. An initial draft of the Proof of Claim form prepared by the Receiver is attached as Exhibit "A" to this Motion. The Receiver anticipates however that this form may be revised and modified further based on input provided by the interested parties. In addition, the Receiver is required to mail a written notice of the right to file a claim in a form substantially similar to Exhibit "B" to claimants whose whereabouts are known and the

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Receiver is required to publish at least once in a publication within the State of Arizona, the State of Tennessee and the State of Delaware a copy of the Notice by Publication in a form substantially similar to Exhibit "C". Although the Receivership Entities solicited funds from throughout the United States, the principal place of business for The Breast Cancer Society, Inc. was in Arizona and the State of incorporation was Delaware. The principal place of business for the Children's Cancer Fund of America, Inc. was in Tennessee and the State of incorporation was Arizona.

WHEREFORE, the Receiver respectfully requests that the Court enter the proposed Order Establishing Procedures for the Adjudication of Claims lodged with the Court.

Respectfully submitted this 16th day of October, 2015.

GUTTILLA MURPHY ANDERSON, P.C.

s/Patrick M. Murphy
 Patrick M. Murphy
 Attorneys for the Receiver

PROOF OF SERVICE

This is to certify that on this 16th day of October, 2015, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants.

s/Patrick M. Murphy
 Patrick M. Murphy

2052-001(214553)

FTC v. Cancer Fund of America, Inc., et al
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Exhibit List to
Second Motion for Order Establishing Claims Procedures for the Breast
Cancer Society, Inc. and Children's Cancer Fund of America, Inc.

1. Exhibit "A" - Verified Proof of Claim form
2. Exhibit "B" - Notice of Right to File Proof of Claim (Mailing)
3. Exhibit "C" - Notice of Right to File Proof of Claim (Publication)